रजिस्ट्री सं. डी.एल.-33004 / 97 REGISTERED No. DL-33004/97

भारत का राजपत्र
The Gazette of India

असाधारण

EXTRAORDINARY

भाग II—खण्ड 2

PART II—Section 2

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं॰ 4] नई दिल्ली, सोमवार, फरवरी 24, 1997 / फाल्गुन 5, 1918
No. 4] NEW DELHI, MONDAY, FEBRUARY 24, 1997 / PHALGUNA 5, 1918

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

RAJYA SABHA

The following Bill was introduced in the Rajya Sabha on the 24th February, 1997:—

BILL NO. X OF 1997

A BILL to provide for the taking over of the management of the Lalit Kala Akadami for a limited period in the public interest and for matters connected therewith or incidental thereto.

WHEREAS the Lalit Kala Akadami was set up as an apex cultural body in the field of visual arts by the Government of India by the Parliamentary Resolution passed on the 5th day of August, 1954 to encourage and promote visual arts such as paintings, graphics, sculptures, etc.;

AND WHEREAS the Lalit Kala Akadami was registered as a society under the Societies Registration Act, 1860 on the 11th day of March, 1957; 21 of 1860.

AND WHEREAS the Akadami has full functional autonomy in the field of its activity, even though the Government of India is the sole-funding agency for the organisation;

AND WHEREAS pursuant to the complaints received with regard to the misuse of funds by the Lalit Kala Akadami from several quarters including from the Hon'ble Members of Parliament, a Committee was set up by the Government of India by Resolution dated the 24th day of March, 1988 under the Chairmanship of Shri P.N. Haksar to go into the functioning of National Akadamies including the Lalit Kala Akadami and the said Committee, after a detailed scrutiny of the affairs in the management of the said Akadami, recommended the restructuring of their General Council, Executive Board and the electoral roll, of the artists constituency;

AND WHEREAS, in view of the serious difficulties which have arisen with regard to the management of the Lalit Kala Akadami, it is necessary to take over, for a limited period, the management thereof and it is felt that any delay in taking over the management of the Lalit Kala Akadami would be highly detrimental to the interests and objectives of Akadami;

BE it enacted by Parliament in the Forty-eighth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title and commencement.

1. (*1*) This Act may be called the Lalit Kala Akadami (Taking Over of Management) Act, 1997.

(2) It shall be deemed to have come into force on the 24th day of January, 1997.

Definitions.

2. In this Act, unless the context otherwise requires,—

(*a*) "Administrator" means a person appointed as the Administrator under section 4;

(*b*) "prescribed" means prescribed by rules made under this Act;

(*c*) "Societies Registration Act" means the Societies Registration Act, 1860, as in force in the National Capital Territory of Delhi; 21 of 1860.

(*d*) "society" means the Lalit Kala Akadami being a society registered under the Societies Registration Act;

(*e*) words and expressions used herein and not defined, but defined in the Societies Registration Act shall have the meanings respectively assigned to them in that Act.

CHAPTER II

TAKING OVER OF THE MANAGEMENT OF THE LALIT KALA AKADAMI

Management of the society.

3. (*1*) On and from the commencement of this Act, and for a period of three years thereafter, the management of the society shall vest in the Central Government:

Provided that if the Central Government is of opinion that in order to secure the proper management of the society, it is expedient that such management should continue to vest in the Central Government after the expiry of the said period of three years, it may, from time to time, issue directions for the continuance of such management for such

period, not exceeding one year at a time, as it may think fit; so, however, that the total period for which such management shall continue to vest in the Central Government shall not, in any case, exceed five years.

(2) The management of the society shall be deemed to include management of all assets, rights, lease-holds, powers, authorities and privileges and all property, movable and immovable, including lands, buildings, works of art, workshops, projects, stores, instruments, library, machinery, automobiles and other vehicles, cash balances, reserve funds, investments and book debts and all other rights and interests arising out of such property as were immediately before the commencement of this Act in the ownership, possession, power or control of the society, and all such books of account, registers, maps, plans and all other documents of whatever nature relating thereto.

(3) Any contract, whether express or implied, or other arrangement, in so far as it relates to the management of the society and affairs of the society and in force immediately before the commencement of this Act shall be deemed to have terminated on such commencement.

(4) All persons in charge of the management of the society, including persons holding offices as Chairman, Vice-Chairman, Secretary or Honorary Secretary, as the case may be, and members of the General Council, Executive Board, Finance Committee and all other committees of the society immediately before the commencement of this Act shall be deemed to have vacated their offices as such on such commencement.

Administrator of society.

4. (1) The Central Government shall, as from the commencement of this Act, appoint a person as the Administrator of the society for the purpose of taking over the administration thereof and the Administrator shall carry on the management of the society for and on behalf of the Central Government.

(2) Subject to the supervision, control and directions of the Administrator, the functions of the finance Committee of the Society, before the commencement of this Act, shall be exercised by an officer of the Central Government, to be appointed by that Government.

(3) The Central Government may issue such directions (including directions as to initiating, defending or continuing any legal proceedings before any court, tribunal or other authority) to the Administrator as to his powers and duties as that Government may deem desirable and the Administrator may apply to the Central Government at any time for instructions as to the manner in which he shall conduct the management of the society or in relation to any matter arising in the course of such management.

(4) Subject to the other provisions of this Act and the rules made thereunder and to the control of the Central Government, the Administrator shall be entitled, notwithstanding anything contained in the Societies Registration Act or in any other law for the time being in force, to exercise, in relation to the management of the society, the powers of the General Council, or, as the case may be, the Executive Board, including the powers to dispose of any property or assets of such society, whether such powers are derived under any law for the time being in force or from the memorandum and rules and regulations of the society or from any other source.

(5) Every person having possession, custody or control of any property forming part of the society shall deliver forthwith such property to the Administrator.

(6) Any person who, on the commencement of this Act has in his possession or under his control any books, papers, works of art or other documents relating to management of the society, including the minutes books containing the resolutions of the persons in charge of the management of the society before the commencement of this Act, the current cheque books relating to the management of the society, any letters, memoranda, notes or other communications between him and the society shall, notwithstanding anything contained in any other law for the time being in force, be liable to account for the books, papers, works of art and other documents (including such minutes books, cheque books,

letters, memoranda, notes or other communications) to the Administrator.

(7) Any person in charge of the administration of the society immediately before the commencement of this Act shall, within ten days from that day or within such further period as the Central Government may allow in this behalf, furnish to the Administrator a complete inventory of all the properties and assets (including particulars of book debts and investments and belongings) forming part of the society immediately before the commencement of this Act and of all the liabilities and obligations of the society, in relation to its administration, subsisting immediately before such commencement, and also of all agreements entered into by the society in relation to its administration and in force immediately before such commencement.

(8) **The Administrator shall receive from the funds of the society such remuneration as the Central Government may fix.**

No right to compensation for premature termination of a contract.

5. Notwithstanding anything contained in any law for the time being in force, no person in respect of whom any contract of management or other arrangement is terminated by reason of the provisions contained in sub-section (3) of section 3 or who ceases to hold any office by reason of the provisions contained in sub-section (4) of that section, shall be entitled to claim any compensation for the premature termination of the contract of administration or other arrangement or for the loss of his office.

Relinquishment of administration of the society.

6. (1) Notwithstanding anything contained in sub-section (1) of section 3, if, at any time before the expiry of the period referred to in that sub-section, it appears to the Central Government that the purposes of the vesting of the management of the society in that Government have been fulfilled or that for any other reason it is not necessary that the management of the society should remain vested in that Government, it may, by order published in the Official Gazette, relinquish the management of the society with effect from such date as may be specified in the order.

(2) On and from the date specified under sub-section (1), the administration of the society shall vest in the General Council of the society and such management shall be carried on in accordance with the provisions of the Societies Registration Act so, however, that the steps, if any, in relation to the management of the society may be taken after the publication of the order under sub-section (1).

Application of Act 21 of 1860.

7. (1) Notwithstanding anything contained in the Societies Registration Act or in the memorandum and rules and regulations of the society, but subject to the provisions of sub-section (2) of section 6, so long as the management of the society remains vested in the Central Government,—

(a) it shall not be lawful for the members of the society or any other person to nominate or appoint any person to be a member of the General Council of the society;

(b) no resolution passed at any meeting of the members of the society or at any meeting of the General Council of the society, on or after the commencement of this Act, shall be given effect to unless approved by the Central Government;

(c) no proceeding for the dissolution of the society or for the merger with any other society or for the appointment of a Receiver in respect of its administration shall lie in any court except with the consent of the Central Government.

(2) Subject to the provisions contained in sub-section (1) and subject to such other exceptions, restrictions and limitations, if any, as may be prescribed, the Societies Registration Act shall continue to apply to the society in the same manner as it applied thereto before the commencement of this Act.

CHAPTER III

MISCELLANEOUS

Penalties.

8. Any person who,—

(a) having in his possession or custody or under his control any property forming part of the society, wrongfully withholds such property from the Administrator or any person authorised under this Act, or

(b) wrongfully obtains possession of any such property, or

(c) wilfully retains, or fails to deliver, any property forming part of the society or removes or destroys it, or

(d) wilfully withholds or fails to account for any books, papers, works of art or other documents which may be in his possession or custody or under his control to the Administrator or any person authorised under this Act, or

(e) fails, without any reasonable cause, to furnish information or particulars as provided in sub-section *(6)* of section 4,

shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to ten thousand rupees, or with both.

Offences by companies.

9. *(1)* Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section *(1)*, where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.— For the purposes of this section,—

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner in the firm.

Exclusion of period of operation of Act.

10. In computing the period of limitation prescribed by any law for the time being in force for any suit or application against any person by the society in respect of any matter arising out of any transaction in relation to its management, the time during which this Act is in force shall be excluded.

Act to have overriding effect.

11. The provisions of this Act or any notification, order or rule made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any law other than this Act or in any instrument having effect by virtue of any law other than this Act or in any decree or order of any court.

Protection of action taken in good faith.

12. *(1)* No suit, prosecution or other legal proceeding shall lie against the Administrator or any officer of the Central Government or any other person for anything which is in good faith done or intended to be done under this Act.

(2) No suit or other legal proceeding shall lie against the Central Government or the Administrator or any officer of the Central Government or any other person for any damage caused or likely to be caused by anything which is good faith done or intended to be done under this Act.

Contracts in bad faith may be cancelled or varied.

13. *(1)* If the Central Government is satisfied, after such inquiry as it may think fit, that any contract or agreement entered into at any time within one year immediately preceding the commencement of this Act, between the society and any other person, in so far as such contract or agreement relates to the management of the society, has been entered into in bad faith, or is detrimental to the interests of the society, it may make an order cancelling or varying (either unconditionally or subject to such conditions as it may think fit to impose) such contract or agreement and thereafter the contract or agreement shall have effect accordingly:

Provided that no contract or agreement shall be cancelled or varied except after giving to the parties to the contract or agreement a reasonable opportunity of being heard.

(2) Any person aggrieved by an order under sub-section *(1)* may make an application to the High Court at Delhi for the variation or reversal of such order and thereupon such court may confirm, modify or reverse such order.

Power to terminate contract of employment.

14. If the Administrator is of opinion that any contract of employment entered into by the society in relation to its management, at any time before the commencement of this Act, is unduly onerous, he may, by giving to the employee one month's notice in writing or the salary or wages for one month in lieu thereof, terminate such contract of employment.

Power to make rules.

15. *(1)* The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(2) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Repeal and saving.

16. *(1)* The Lalit Kala Akadami (Taking Over of Management) Ordinance, 1997 is hereby repealed. Ord. 10 of 1997.

(2) Notwithstanding the repeal of the Lalit Kala Akadami (Taking Over of Management) Ordinance, 1997, anything done or any action taken under the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of this Act.

STATEMENT OF OBJECTS AND REASONS

The Lalit Kala Akadami was set up as an apex cultural body in the field of visual arts by the Government of India by the Parliamentary Resolution passed on the 5th day of August, 1954 to encourage and promote visual arts such as paintings, graphics, sculptures, etc. The Akadami was registered as a Society under the Societies Registration Act, 1860 on the 11th day of March, 1957. The Akadami is fully funded by the Government of India.

2. The Government of India in 1988 set up a Committee under the Chairmanship of Shri P. N. Haksar to go into the functioning of National Akadamies and to recommend structural and other changes that may be necessary for the purposeful functioning of these Akadamies. The Committee submitted its recommendations to the Government of India which in respect of the Lalit Kala Akadami included restructuring of the General Council, Executive Board and Electoral College. Despite prolonged consultations for some years by the Department of Culture, the Lalit Kala Akadami did not accept some of the more important recommendations of the Haksar Committee although the other two Akadamies have.

3. In the recent past, there have been a number of representations to the Government from artists' community in general and Members of Parliament in particular regarding mismanagement, favouritism and financial irregularities in the Lalit Kala Akadami. There have been a number of press reports too in this regard. Feeling concerned at these unfortunate developments, Government had an administrative enquiry done on certain aspects of the functioning of the Lalit Kala Akadami. Special audit was also ordered into its accounts. The two enquiries revealed several instances of abuse of authority, mismanagement of financial assistance, financial loss, irregularities in the recruitment, promotion and extension, doubtful purchase, mismanagement of the permanent collection of the Akadami, etc. Also it became evident that vast number of important artists and experts have been alienated from the activities of the National Akadamies and its prestige and reputation as a national institution has been seriously eroded.

4. As serious difficulties had arisen with regard to the management of the Lalit Kala Akadami and as any delay in taking the necessary remedial action would have been highly detrimental to the interests and objective of the Lalit Kala Akadami, it has been considered necessary to take over the management of the Lalit Kala Akadami by the Central Government for a limited period. As Parliament was not in session, the President promulgated on the 24th day of January, 1997, the Lalit Kala Akadami (Taking Over of Management) Ordinance, 1997 (Ord. 10 of 1997).

The Bill seeks to replace the aforesaid Ordinance.

S.R. BOMMAI.

FINANCIAL MEMORANDUM

The Bill provides the taking over the management of Lalit Kala Akadami, a society registered under the Societies Registration Act, 1860.

2. Clause 4 of the Bill provides for the appointment of a person as the Administrator of the Lalit Kala Akadami and further provides that the Administrator shall receive from the funds of the Lalit Kala Akadami such remuneration as the Central Government may fix.

3. The management of the Lalit Kala Akadami will involve a recurring annual expenditure of Rs. 268.00 lakhs to meet the ongoing activities. The Bill, if enacted, is not likely to involve any non-recurring expenditure.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 15 of the Bill empowers the Central Government to make rules to carry out the provisions of the Bill. The matters in respect of which the rules may be made are matters of procedure and administrative detail. The delegation of legislative power is, therefore, of a normal character.

V.S. RAMA DEVI,
Secretary-General.

Published by the Secretary-General, Rajya Sabha under Rule 68 of the Rules of Procedure and Conduct of Business in the Rajya Sabha.